

## REMARKS

Reconsideration of this application is respectfully requested.

A Restriction Requirement was mailed to applicants on 22 September 2004 requiring a restriction between group I, including claims 1-16, and group II, including claims 17-25. In the Division-Continuation Program Application Transmittal Form for instituting the filing of this divisional application, under item 9, claims 17-25 of the prior original application were specifically canceled. Therefore, claims 17-25 were never in the subject application and could not be the subject of a Restriction Requirement.

Claims 17-25 are the subject of a copending United States patent application, Serial No. 10/126,291, filed 19 April 2002. In fact, claims 17-18 and 20-25 have been allowed and are about to issue as a United States Patent and could not be the subject of a second patent application. Therefore, applicants respectfully request the withdrawal of the 22 September 2004 Restriction Requirement and a first Office Action on claims 1-16, the only claims in the above identified patent application.

To provide a complete response to the Office Action mailed 4 November 2004, applicants have included below an answer to the rejection.

Claims 17-19, 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Huang et al. (U.S.P. 6,384,353). Applicants respectfully traverse this rejection.

All of the rejected claims specify sealing rings on the cap and the substrate, the sealing rings specifically including an adhesion portion and a sealing portion. This specific structure insures a solid hermetic seal between the substrate and the cap. Further, this structure allows matching of temperature coefficients between the substrate and the cap, if a mismatch is present because of different materials (e.g. gallium arsenide and silicon).

Huang et al. do not even disclose two metal sealing rings. In fact Huang et al. do not disclose what the material is making up bonding layer 151 but suggest it alloys with substrate trace 113. Therefore, applicants believe that claims 17-18, 21-22 are not anticipated by Huang et al.

Claims 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (U.S.P. 6,384,353).

Applicants respectfully traverse this rejection.

Claim 20 specifically sets forth "adhesion portions of the substrate metal seal ring and the cap metal seal ring each include one of tungsten, titanium, and combinations thereof." As pointed out above, Huang et al. do not disclose two seal rings that are specifically designed with an adhesion portion selected to adhere, respectively, to the substrate and the cap edge. Applicants believe that this is substantially different from anything disclosed by Huang et al. and provides substantial benefits to the structure.

Claim 23 specifies the solder for sealingly engaging the sealing portion of the cap metal seal ring on the continuous edge of the cap member with the sealing portion of the substrate metal seal ring on the surface of the supporting substrate, as now specified in claim 22. Applicants believe that this structure is substantially different than anything disclosed in Huang et al., provides substantial advantages over anything disclosed in Huang et al., and is patentably novel.

Therefore, applicants believe that claims 20 and 23 are now in condition for allowance.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (U.S.P. 6,384,353) in view of Roshen et al. (U.S.P. 5,475,353). Applicants respectfully traverse this rejection.

As pointed out above, Huang et al. do not disclose the structure now being claimed. Further, Roshen et al. do not disclose any structure sealing their lid 30 to the substrate 12. Also, claims 24 and 25 set forth a MEMS device that is entirely different than the structure of Roshen et al. Thus, no combination of the teachings of Huang et al. and the teachings of Roshen et al. would suggest the present novel claimed structure to one of ordinary skill in the art. Therefore, applicants believe that claims 24 and 25 are now in condition for allowance.

### SUMMARY

Applicants respectfully request the withdrawal of the Restriction Requirement on the basis that claims 17-25 were never in the above identified patent application and, therefore, cannot be the subject of a restriction requirement. With the Restriction Requirement withdrawn, applicants respectfully request reconsideration of the above identified patent application and a first Office Action on the merits.

To ensure a complete response to the Office Action, mailed 4 November 2004, applicants have responded to the rejection of claims 17-25. The following portion of the summary is in response to the rejection. Since none of the applied references disclose apparatus similar to applicant's claimed structure and since none of the applied references can achieve the functions of the present invention, applicant believes that claims 17-25 are in condition for allowance.

Should there be any questions or remaining issues regarding the foregoing, Examiner is cordially invited to telephone the undersigned attorney for a speedy resolution.

Respectfully requested,



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